

DECISION

THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548

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FILE: B-185341

DATE: FEB 13 1976

MATTER OF: Payment of costs of accredited rural appraiser exam

DIGEST: Exams not an integral part of a course of instruction are not within definition of "training" in 5 U.S.C. 4101(4) (1970). Therefore, Government reimbursement of costs of an exam leading to certification of Government employee as accredited rural appraiser is not permitted by terms of Government Employees' Training Act, 5 U.S.C. 4101-4118.

Mr. John A. Hancock, an authorized certifying officer of the Bureau of Reclamation, Department of the Interior, asks (his reference LM-360) whether he may pay the expenses incurred by a Bureau employee while taking an exam to qualify as an Accredited Rural Appraiser. The expenses submitted for reimbursement totalled \$347.75 and, as itemized by the employee, included round trip airfare from Denver, Colorado to Lubbock, Texas; allied transportation costs; 3 ½ days per diem, and a registration fee for the exam.

The certifying officer's letter and the supporting documents explain that a designation as an accredited rural appraiser is highly desirable. Accredited rural appraisers are recognized by courts as experts in their field. In condemnation cases, which involve expert testimony concerning land acquisition worth thousands of dollars, private landowners often employ appraisers accredited by professional organizations as witnesses in their behalf. The Bureau is of the view that if government appraisers testifying for the government are to enjoy equal credibility, they too must be professionally accredited. Because of the value of professional certification of its employees, the Bureau of Reclamation pays tuition and per diem for courses preparatory to such certification, as permitted by 5 U.S.C. 4101, 4109(a) (2)(1970). As noted above, the certifying officer asks here, however, whether an employee may be reimbursed for the costs of taking the qualifying exam after his study for the exam has been completed. For the reasons outlined below, we conclude that payment is not proper.

In his letter to us, the certifying officer states that he originally disallowed the claim because of the rulings in 47 Comp. Gen. 577 (1968) and the cases cited therein. That case concerned payments to Montana by the federal government, of fees required to accompany

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by an employee for the performance of official duties so as to ascertain his training needs when the agency is unable to determine those needs through supervisory evaluation or other available agency appraisal system or when such evaluation or appraisal system would be more costly. The cost of an examination would not otherwise be payable except when the cost of the examination is inextricably mixed with the cost of a program of training or when the examination process itself is designed to impart knowledges and skills to the examinee."

Under this explication of the statute, the costs of an examination given to conclude a university course, for example, would normally be payable. The costs of the accredited rural appraiser exam, on the other hand, are not payable; we have no indication that the examination fee is inextricably mixed with the cost of the preparation for the exam.

While 5 U.S.C. 4109 (1970), supra, authorizes agency payment of some or all training costs, and while the implementing regulation contained in the Federal Personnel Manual, ch. 410, § 6-1(a) permits an agency head to define "necessary training expenses" for the purpose of payment of those expenses, an agency head is not authorized to expand the statutory definition of "training" or to pay for items not contemplated by that definition. Because an examination such as the one here involved does not fall within the definition of training, no reimbursement is possible for fees charged for an examination or for allied costs, such as travel and per diem, incurred while taking an exam which is not a part of a regular course of instruction.

Certain other decisions may demonstrate this point. In appropriate circumstances the head of an agency might provide assistance to members of his legal staff whom he determines under the Government Employees' Training Act should take a bar review course. Nonetheless, in 22 Comp. Gen. 460 (1942), we denied reimbursement of a fee imposed on an attorney working for the Federal Trade Commission when he sought to represent the Government before the 10th Circuit Court of Appeals. There we held that an officer or employee bears the duty of qualifying himself for the performance of his official duties, and that if a license is required for that purpose, he must procure it at his own expense. That decision was reaffirmed by 47 Comp. Gen. 116 (1967), which again denied reimbursement to a Government attorney of the fee he had paid in order to practice before the 10th Circuit Court of Appeals. We reasoned that the privilege to practice before a particular court is

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the mandatory applications of Bureau of Reclamation employees for state certification as water and waste water operators. Briefly, we denied payment because no Federal statute specifically authorized the imposition of such fees. We held that in the absence of such a statute, the supremacy clause, U.S. Const. Art. V, cl. 2, forbade payment of these fees, which represented a State-imposed hindrance to the operation of the Federal Government. Since the fees required for the accredited rural appraiser exam are not mandatorily imposed by a State, that decision does not bear directly on this situation.

The Government Employees' Training Act, Pub. L. 89-554, 80 Stat. 432, September 16, 1966, 5 U.S.C. 4101-4113 (1970), is the basic authority for training government employees. 5 U.S.C. 4102(a)(2) (1970), authorizes the head of an agency to pay, or reimburse an employee for, all or a part of the necessary expenses of training, including travel and per diem, transportation costs, tuition and matriculation fees, library and laboratory fees, purchase or rental of books, materials, and supplies, and other services or facilities directly related to the training of the employee. The training for which the head of an agency is permitted to pay is defined by 5 U.S.C. 4101(4)(1970) as:

"* * * the process of providing for and making available to an employee, and placing or enrolling the employee in, a planned, prepared, and coordinated program, course, curriculum, subject, system, or routine of instruction or education, in scientific, professional, technical, mechanical, trade, clerical, fiscal, administrative, or other fields which are or will be directly related to the performance by the employee of official duties for the Government, in order to increase the knowledge, proficiency, ability, skill, and qualifications of the employee in the performance of official duties."

In contrast to this definition of "training", an "examination" tests the employee on the skills acquired by his training, which may also qualify an employee for professional certification or license.

The provisions of ch. 410, § 6-3(d)(4) of the Federal Personnel Manual, in discussing services related to training for which payment is proper, state that:

"* * * an examination fee may be paid if the examination is used as a diagnostic tool to determine deficiencies in knowledges and skills needed

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personal to the individual and normally is his for life. Thus, payment for that privilege should be from personal funds. Similarly, professional accreditation as a rural appraiser is personal to its holder and will remain with him whether or not he remains in the employ of the Government; thus payment here again should be from personal funds. See also 46 Comp. Gen. 695 (1967).

Accordingly, based on the relevant statute and regulation, payment for the costs of the accredited rural appraiser exam would be improper. The voucher which accompanied the submission will be retained in our Office.

R. F. KELLER

[Deputy] Comptroller General
of the United States